IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 18TH DECEMBER 2006 / 27TH AGRAHAYANA 1928

OP.No. 434 of 1996(B)

PETITIONER:

THRESSIAMMA L. CHIRAYIL, W/o LATE C.J.LUKA,
CHIRAYIL HOUSE, ATHIRAMPUZHA, KOTTAYAM

BY ADV. SRI.MATHEW JOHN

RESPONDENTS:
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1. STATE OF KERALA REPRESENTED BY THE
DEPUTY COMMISSIONER OF AGRICULTURAL INCOMETAX
AND SALESTAX, KOTTAYAM
2. THE REGIONALT RANSPORT OFFICER,KOTTAYAM

BY SPL. GOVT PLEADER FOR TAXES SRI V.V.ASOKAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD
ON 14/11/2006, ALONG WITH OP NO. 1788 OF 1996
OP NO. 6987 OF 1997 OP NO. 2408 OF 1997 OP NO. 20344 OF 1996 OP NO. 16151 OF 1996 OP NO. 3724 OF 1997 OP NO. 6151 OF 1996 OP NO. 14183 OF 1996 OP NO. 17299 OF 1996 OP NO. 154 OF 1997 OP NO. 19893 OF 1996 OP NO. 19209 OF 1996 OP NO. 20061 OF 1996 OP NO. 20112 OF 1996 OP NO. 5009 OF 1997 OP NO. 808 OF 1996 OP NO. 14950 OF 1996 OP NO. 19885 OF 1996 OP NO. 16729 OF 1996 OP NO. 17875 OF 1996 OP NO. 20249 OF 1996 OP NO. 9350 OF 1999 OP NO. 8444 OF 1997 WA NO. 1412 OF 1998 WA NO. 770 OF 1997 WA NO. 816 OF 1997 WA NO. 841 OF 1997 WA NO. 844 OF 1997 WA NO. 854 OF 1997 WA NO. 975 OF 1997 WA NO. 1003 OF 1997 WA NO. 1004 OF 1997 WA NO. 1005 OF 1997 WA NO. 1022 OF 1997 WA NO. 1074 OF 1997 WA NO. 1076 OF 1997 WA NO. 115 OF 1997 WA NO. 1115 OF 1997 WA NO. 1121 OF 1997 WA NO. 1147 OF 1997 WA NO. 1149 OF 1997 WA NO. 1235 OF 1997 WA NO. 1264 OF 1997 WA NO. 1346 OF 1997 WA NO. 1466 OF 1996 WA NO. 1714 OF 1997 WA NO. 1249 OF 1997 OP NO. 19391 OF 2001 WPC NO. 8741 OF 2005 WPC NO. 21063 OF 2004 WPC NO. 12864 OF 2006 WPC NO. 12865 OF 2006 WPC NO. 12513 OF 2005 WPC NO. 12513 OF 2006 WPC NO. 12819 OF 2006 WPC NO. 12490 OF 2006 WPC NO. 12671 OF 2006 WPC NO. 12888 OF 2006 WA NO. 1295 OF 2004 WA NO. 2267 OF 2005 WA NO. 1010 OF 2006 WA NO. 1011 OF 2006 THE COURT ON 18/12/2006 DELIVERED THE FOLLOWING:

SOME OF THE OTHER COUNSEL APPEARED FOR PETITIONERS IN OTHER CASES:

SRI P. GOPALAKRISHNAN NAIR, SRI ANTONY DOMINIC, SRI RANJITH THAMPAN
SRI V.N.ACHUTHA KURUP, SMT S.K.DEVI, SRI P.K.SURESHKUMAR
SRI M.K.CHANDRAMOHAN DAS SRI C.K.ABDUL RAHIM SRI GEORGE POONTHOTTAM
SRI P.K.RAVINDRANATHA MENON, SRI P. SANJAY, SRI C.C.THOMAS ETC.

K.S. RADHAKRISHNAN & M.N. KRISHNAN, JJ.

O.P. Nos. 434,1788, 20344,16151,6151,14183,17299,
19893,19209,20061,20112,808,14950,19885,16729,
17875 and 20249 of 1996, 6987, 2408, 3724, 154,
5009 and 8444 of 1997 and 9350 of 1999 and 21791 of 2001,
W.A. Nos. 770, 816, 841, 844, 854,975,1003, 1004,
1005, 1022,1074,1076,1115,1121,1147,1149,1235,
1264,1346,1466, 1714 and 1249 of 1997 and 1412 of 1998
O.P. No 19391 of 2001, W.P.C. Nos. 21063/2004, 8741 and 27659
of 2005,12864, 12865, 12888, 12671, 12490, 12819,12513
and of 2006 and W.A. Nos. 1295/2004,
2267/2005 and 1010 and 1011 of 2006

Dated: 18th December 2006

JUDGMENT

Radhakrishnan,J.

Constitutional validity of certain provisions of the Kerala Tax on Entry of Goods into Local Areas Act, 1994 (Act 15 of 1974) is under challenge in all these original petitions. A few of the writ petitioners have sought for a declaration that Section 2 (1)(d), 2 (1) (g), 2(1)(i) and Section 3 of the Kerala Tax on Entry of Goods into Local Areas Act, 1994 (in short “Entry Tax Act”) are discriminatory and ultra vires of Articles 14, 19(1)(a), 19(1) (g), 246, 265, 286, 301,

304(a), 304(b) and other consequential reliefs. State maintained the stand that the Act is within the legislative competence of the State since it was promulgated in exercise of its powers under Articles 245 and 246 read with Entry 52 List II of the VII Schedule to the Constitution of India. Two batches of cases have also come up for our consideration; some pertaining to the levy of entry tax with regard to the goods brought from outside the State to the State of Kerala and some others with regard to the goods brought from outside the country to the State of Kerala. Counsel appearing for the petitioners submitted that the right of the State to impose entry tax under the Entry Tax Act has to be tested in the light of the decision of the Constitution Bench of the apex court in Jindal Stainless Ltd v. State of Haryana and others (2006) 7 S.C.C. 241). Counsel submitted, in the light of the above decision of the apex court the decision rendered by a Division Bench of this court in Rajan v. State of Kerala (1995 (2) KLT 369) is no longer good law and that the decision in Father William Fernandez v. State of Kerala and others (115 STC 591) has to be affirmed.

2. The Division Bench in Rajan's case, supra considered the question as to whether Section 3 of the Entry Tax Act and Rule 4

framed therein are ultra vires and violative of the Constitution of India. Though the Bench made reference to the decisions of the apex court in Atiabari Tea Co. Ltd. v. State of Assam (AIR 1961 SC 232) and Automobile Transport (Rajasthan) Ltd. v. State of Rajasthan (AIR 1962 S.C 1406), it upheld the validity of Section 3 of the Entry Tax Act holding that if the tax imposed is compensatory or regulatory in nature it cannot be contended that it is violative of Article 301 of the Constitution of India. The court noticed that the contention of the State that there was evasion of sale tax in motor vehicles purchased from outside the State and brought into the State and it was as a compensatory measure the Entry Tax Act was enacted. The court also took the view that the State Legislature is competent to enact such a legislation under Entry 52 of List II of the VII Schedule of the Constitution.

3. The Kerala Finance Act, 1996 (Act 23 of 1996) had introduced substantial amendments to Act 15 of 1994 with effect from 19.7.1996. Preamble to that Act was substituted as follows:

> "An Act to provide for the levy of tax on the entry of goods into local areas for consumption, use or sale therein. "

State and its officers sought to levy entry tax not only on goods

which are brought from outside the State into any local area for consumption, use or sale but also from outside the country. Several writ petitions were filed before this court challenging the imposition of entry tax on motor vehicles and goods like JCB 3 CX Bachoe Loader, escavators etc. brought from outside the State and abroad. Writ petitions were also filed by non-resident Indians challenging the imposition of entry tax when they brought motor cars from outside the country. A few of the A class contractors have also brought JCB from places like England. Placing reliance on the judgment in Rajan's case, State contended that the principle laid down in that case is equally applicable when goods are brought from outside the country. Repelling the contention of the State the Division Bench of this court in Fr William Fernandez's case (supra) took the view that the principles laid down in Rajan's case would not apply when goods are brought from outside the country.

4. Counsel appearing for the petitioners submitted that entry tax cannot be levied when motor vehicles and other goods are brought from other States as well as from abroad in the light of the principles laid down by the apex court in Jindal Stainless Ltd's case, supra, since it is not compensatory in nature. Further it was also

stated that the State have not furnished any quantifiable data on the basis of which compensatory tax could be levied. Counsel further submitted that levy of entry tax sought to be imposed under the Act cannot be said to be either compensatory or regulatory but prevents free flow of trade, commerce and intercourse and does not satisfy the requirements of Article 304(b) of the Constitution. It was also stated that the amendment Act has not received the assent of the President. It was pointed out that the Bill was not moved in the assembly with the previous sanction of the President as required under the proviso to Article 304(b).

5. The Constitution Bench in Jindal's case, supra, in paragraphs 52 and 53 of the judgment, stated as follows:

> 52. In our opinion, the doubt expressed by the referring Bench about the correctness of the decision in Bhagatram's case 1995 Supp. (1) SCC 673 followed by the judgment in the case of Bihar Chamber of Commerce (1996) 9 SCC 136) was well founded.
>
> 53. We reiterate that the doctrineof “direct and immediate effect” of the impugned law on trade and commerce under Article 301 as propounded in Atiabari Tea Co. Ltd. v. State of Assam AIR 1961 SC 232 and the working test enunciated in Automobile Transport (Rajasthan) Ltd v. State of Rajasthan AIR 1962 SC 1406 for deciding whether a tax is compensatory or not vide para 19 of the report, will continue to

> apply and the test of "some connection" indicated in para 8 of the judgment in Bhagatram Rajeevkumar v. Commissioner of Salestax M.P. 1995 Supp. SCC 673 and followed in the case of State of Bihar v. Bihar Chamber of Commerce (1996) 9 SCC 136, is, in our opinion, not good law. Accordingly, the constitutional validity of various local enactments which are the subject matters of pending appeals, special leave petitions and writ petitions will now be listed for being disposed of in the light of this judgment. "

The matter was accordingly listed for hearing before the Division Bench dealing with those matters. The Bench placing reliance on paragraphs 42 to 45 of the judgment in Jindal's case, supra, permitted, vide its order dated 14.07.2006 the parties to place the relevant data before the respective High Court and the High Courts were directed to ascertain as to whether the impugned levy was compensatory in nature. The order is reported in (2006 (7) SCC 271).

6. In Jindal's case it has been specifically stated that the burden is on the State to show placing materials before court that payment of compensatory tax is reimbursement/recompense for the quantifiable/measurable benefit provided or to be provided to payers. It also opined that as soon as it is shown that the Act invades freedom of trade it is necessary to enquire whether the State has

proved that the restrictions imposed by it by way of taxation are reasonable and in public interest within the meaning of Article 304(b) of the Constitution.

7. The Commissioner of Commercial Taxes, Government of Kerala, in due reverence to the direction of the apex court, filed affidavit before this court on 11.09.2006 explaining the services and expenditure incurred by the State for importers of the goods. It is stated that the State provides variety of services such as convenient roads, protection for transport of goods through traffic checking and police protection for transport of goods through traffic checking and police aid. The affidavit refers to tables explaining the various expenditure incurred by the State for maintenance of roads, bridges, water transport, development of industries and allied matters. Those tables are extracted below:

Table 1

Year	***Entry Tax Collection (In Cr.)***	***Capital exp. On roads and bridges (In Cr.)***
1994-95		95.68
1995-96		114.05
1996-97	1.89	124.73
1997-98	8.26	182.9
1998-99	0.87	132.99

Year	***Entry Tax Collection (In Cr.)***	***Capital exp. On roads and bridges (In Cr.)***
1999-00	10.20	199.02
2000-01	15.62	149.58
2001-02	12.91	199.78
2002-03	44.37	257.68
2003-04	72.68	243.09
2004-05	126.55	218.28
2005-06	140.68	
(Unt 28.2.2006		
	434.03	1708.05

Table 2

Years	***Capital outlay of Industries and Minerals***	***Of which village and small industries***	***Ports and light houses***	***Industrial water transport***	***Other transport services***	***Road transport***
1994-95	8437.81	1276.18	222.8	37.33	852.83	779.48
1995-96	9131.1	2021.45	542.7	50.94	1255.65	771.96
1996-97	1104.62	3718.55	512.1	40.99	455.63	77.76
1997-98	1058.3	2757.65	421.78	160.89	1462.55	853.49
1998-99	7987.75	2157.94	595.66	217.72	504.4	3288.25
1999-2000	6878.77	2832.57	398.75	58.7	475.68	1000.58
2000-01	5820.34	2052.19	275.52	58.04	884.87	886.72
2001-02	3023.94	691.55	175.38	37.39	724.22	915.9
2002-03	3309.28	593.15	364.26	214.34	487.74	564.09
2003-04	3055.33	355.33	471.87	404.78	400.38	472.47
2004-05	7452.96	974.38	783.2	209.12	358.94	624.87

Referring to the above tables it is stated that in the light of the expenditure and services being regularly provided by the State, State is providing service to compensate the levy of entry tax under the Entry Tax Act. It is stated that there is a direct nexus to the levy of entry tax on goods and the expenditure incurred by the State to provide corresponding service to the importers of goods. Referring to the counter affidavit filed by the State, a synopsis of notes of argument was filed in W.P. (C) No 12490 of 2006. Referring to column 2 of the table it is stated that entry tax collection does not indicate whether it was collected for vehicles alone or inclusive of goods and vehicles or after giving rebate as per Section 4 of the Act. It is stated that no figure has been shown for 1994-95 and 1995-96, the starting years. It is also pointed out that during 1996-97 collection was Rs 1.89 crores and in 2005-2006 it is Rs 140.68 crores. It is also pointed out that the expenditure for roads is met from motor vehicle tax revenue and from funds allotted from other agencies like National Highway Fund, World Bank Loan and Allotment from NABARD. Referring to table 2, it is pointed out that capital outlay for industry and minerals have no relevance or

connection with levy of entry tax. Referring to column 3 it is stated that there is no nexus between the Village and Small Scale Industries with the collection of entry tax. So also with regard to the Port and Light House. Referring to column 5 it is stated that the collection of entry tax is not relevant with regard to Industrial Water Transport and also other transport services. With regard to column (7) - road transportation, it is stated that expenses are met from the collection of motor vehicles tax and also aid and allotment from other agencies and Central Government. It is pointed out that the State has not provided any quantitative data on the basis of which compensatory tax could be levied. It is pointed out that the materials furnished do not show any quantifiable or measurable date which have any nexus to the quantifiable benefit.

8. Counsel on either side cited a large number of case laws before us including the decision of the apex court in Atiabari Tea Co.'s case, supra (AIR 1961 SC 232) and Automobile Transport's case, supra (AIR 1962 SC 1406). Most of those decisions were considered by the Constitution bench of the apex court in Jindal's Stainless Ltd's case, and the court has now settled the law. The apex court has examined the source from which the concept of

compensatory tax was evolved and its nature and character and its parameters in the context of Article 301 of the Constitution and held as follows:

> "32. Article 301 states that subject to the other provisions of Part XIII, trade, commerce and intercourse throughout India shall be free. It is not freedom from all laws but freedom from such laws which restrict or affect activities of trade and commerce amongst the States. Although Article 301 is positively worded, in effect, it is negative as freedom correspondingly creates general limitation on all legislative power to ensure that trade, commerce and intercourse throughout India shall be free. Article 301, therefore, refers to freedom from laws which go beyond regulations which burdens, restricts or prevents the trade movement between States and also within the State. Since "freedom" correspondingly imposes "limitation", we have the doctrine of "direct and immediate effect" of the operation of the impugned law on the freedom of trade and commerce in Article 301 as enunciated in Atiabari Tea Co.
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> 33. Article 301 is, therefore, not only an authorisation to enact laws for the protection and encouragement of trade and commerce amongst the States but by its own force creates an area of trade free from interference by the State and, therefore, Article 301 per se constitutes limitation on the power of the State. Article 301 is, however, subject to the other provisions of Articles 302, 303 and 304. It states that subject to other provisions of Part XIII, trade, commerce and intercourse throughout India shall be free.
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> 34. Article 301 is binding upon the Union Legislature and the State Legislatures, but Parliament can get rid of the limitation imposed by Article 301 by enacting a law under Article 302. Similarly, a law made by the State Legislature in compliance with the conditions imposed by Article 304 shall not

be hit by Article 301. Article 301 thus provides for freedom of inter-State as well as intra-State trade and commerce subject to other provisions of Part XIII and correspondingly it imposes a general limitation on the legislative powers, which limitation is relaxed under the following circumstances:

(a) Limitation is relaxed in in favour of Parliament under Article 302, in which case Parliament can impose restrictions in public interest. Although the fetter is limited enabling Parliament to impose by law restrictions on the freedom of trade in public interest under Article 302, nonetheless, it is clarified in clause (1) of Article 303 that notwithstanding anything contained in article 302, Parliament is not, authorised even in public interest, in the making of any law, to give preference to one State over another. However, the said clarification is subject to one exception and that too only in favour of Parliament, where discrimination or preference is admissible to Parliament in making of laws in case of scarcity. This is provided in clause (2) of Article 303.

(b) As regards the State Legislatures, apart from the limitation imposed by Article 301, clause (1) of Article 303 imposes additional limitation, namely, that it must not give preference or make discrimination between one State or another in exercise of its powers relating to trade and commerce under Entry 26 of List II or List III. However, this limitation on the State Legislatures is lifted in two cases, namely, it may impose on goods imported from sister State(s) or Union Territories any tax to which similar goods manufactured in its own State are subjected but not so as to discriminate between the imported goods and the goods manufactured in the State (see clause (a) of Article 304). In other words, clause (a) of Article 304 authorises a State Legislature to impose a non-discriminatory tax on goods imported from sister State(s), even though it interferes with the freedom of trade and commerce guaranteed by Article 301. Secondly, the ban under Article 303 (1) shall stand lifted even if discriminatory restrictions

> are imposed by the State Legislature provided they fulfil the following three conditions, namely, that such restrictions shall be in public interest; they shall be reasonable; and lastly, they shall be subject to the procurement of prior sanction of the President before introduction of the Bill."
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> 35. Broadly, the above analysis of the scheme of Articles 301 to 304 shows that Article 304 relates to the State Legislature while Article 302 relates to Parliament in the matter of lifting of limitation, which, as stated above, flows from the freedom of trade and commerce guaranteed under Article 301. Article 304 also confers upon the State Legislature power to lift the limitations imposed on it by Article 301 and clause (1) of Article 303. This aspect is important because the doctrine of "direct and immediate effect" which is mentioned in Atiabari Tea Co. emerges from the concept of "limitation" embodied in Article 301. It is this doctrine of direct and immediate effect which constitutes the basis of the working test propounded vide para 19 (of AIR) in Automobile Transport. Therefore, whenever the law is impugned as violative of Article 301, the courts will have to examine the effect of the operation of the impugned law on the inter-State and the intra-State movement of goods, which movement constitutes an integral part of trade."

The concept of compensatory tax was examined by the apex court in the light of the above mentioned constitutional provisions especially Article 301. The concept of compensatory tax was not there in the Constitution but was judicially evolved in Automobile Transport's case, supra as a part of regulatory charge. A compensatory tax is levied on an individual as a member of a class, whereas a fee is levied on an individual as such. The apex court examined the

difference between a tax, a fee and a compensatory tax. The apex court in Jindal's case, supra reiterated the principle laid down in Atiabari Tea Co.'s case and Automobile Transport's case. In Atiabari's case, supra the apex court propounded the doctrine of “direct and immediate effect” and held that prohibition or restriction to free trade is not absolute one. Whenever a law is challenged on the ground of violation of Article 301, the court has not only to examine the pith and substance of the levy but in addition thereto, it has to see the effect and the operation of the impugned law on inter-State trade and commerce as well as intra-State trade and commerce.

9. In Atiabari Tea Co.'s case, supra, the statute which was under challenge was Assam Taxation (On Goods Carried by Road or Inland Waterways) Act, 1954. The apex court held that the Act had put a direct restriction on the freedom of trade and since the State Legislature had not complied with the provisions of Article 304(b), the Act was declared void. The court also held that taxing laws are not excluded from the operation of Article 301, meaning thereby tax laws can and do amount to restriction on the freedom of trade, commerce and intercourse guaranteed under Part XIII of the Constitution.

Prohibition or restriction however is not absolute one, and it can avoid invalidation, if it complies with Article 304(b) of the Constitution. In Automobile Transport's case, supra the challenge was against the Rajasthan Motor Vehicles Taxation Act, 1951. The challenge under Article 301 was rejected by the court holding that the taxes are compensatory taxes which instead of hindering trade, commerce and intercourse facilitate them by providing roads and maintaining the roads. The court held that if a statute fixes a charge for a convenience or service provided by the State, and imposes it upon those who choose to avail themselves of the service or convenience, the freedom of trade and commerce may well be considered unimpaired. The apex court in that case has laid down a working test to decide whether a tax is compensatory or not. Applying that test the court has to see whether the impugned enactment facially or patently indicates quantifiable date on the basis of which the compensatory tax is sought to be levied. The Act must facially indicate the benefit which is quantifiable or measurable and it must broadly indicate proportionality to the quantifiable benefit.

10. The concept of compensatory tax, it is well settled, is a judicially evolved principle and could be an exception to the

provisions of Article 301. The apex court also indicated after referring to the decision in Automobile Transports' case that the primary purpose of a taxing statute is the collection of revenue. On the other hand, regulation extends to administrative acts which produces regulative effects on trade and commerce. The difficulty arises because taxation is also used as a measure of regulation. There is a working test to decide whether the law impugned is the result of the exercise of regulatory power or whether it is the product of the exercise of the taxing power. It is pointed out that if the impugned law seeks to control the conditions under which an activity like trade is to take place then such law is regulatory. It is also stated that if the impugned taxing or non-taxing law chooses an activity, say, movement of trade and commerce as the criterion of its operation and if the effect of the operation of such a law is to impede the activity, then the law is a restriction under Article 301. It is also pointed out by the apex court that the law is to enforce discipline or conduct under which the trade has to perform or if the payment is for regulation of conditions or incidents of trade or manufacture then the levy is regulatory, a way of reconciling the concept of compensatory tax with the scheme of Articles 301,302 and 304.

11. The Constitution Bench had observed that the concept of compensatory tax is not there in the Constitution but judicially evolved in the case of Automobile Transport's case as a part of regulatory charge and the apex court analysed the parameters of compensatory tax. In the case of a tax there is no identification of a specific benefit and even if such identification is there it is not capable of direct measurement. A tax is a payment where the special benefit, if any, is converted into common burden. On the other hand, a fee is based on the “principle of equivalence”. In the case of a fee or compensatory tax, the “principle of equivalence” applies and the basis of a fee or a compensatory tax is the same. The main basis of a fee or a tax, even if there is any benefit, the same is incidental to the government action and even if such benefit results from the government action, the same is not measurable. Fee or a compensatory tax has to be broadly proportional and not progressive.

12. Referring to Jindal's Stainless Ltd's case, the apex court in a recent judgment Vijayalakshmi Rice Mill and others v. Commercial Tax Officer (2006) 6 S.C.C. 763) held that the said decision cannot be interpreted to mean that the sea change which has taken place in

the concept of fee (as noted above) has vanished, and that the old concept of fee has been restored and that now it has to be established that the particular individual from whom the fee is being realised must be rendered some specific services. Noticing that the decision in Jindal Stainless Ltd.'s case was given in connection with Article 301 of the Constitution and it was not regarding the nature of a fee, the two judges Bench of the apex court held that the decisions in Sreenivasa General Traders v. State of A.P. (1983) 4 S.C.C.353), City Corporation of Calicut v. Thachambalath Sadasivan (1985) 2 S.C.C.112), State of H.P. v. Shivalik Agro Poly Products (2004) 8 S.C.C. 556) still hold the field regarding the nature of fee. The court held that cess levied by Section 7 (1) of A.P. Rural Development Act, 1996 on purchase of goods for rendering the rural public, the services of rural development as enunciated in Section 9 thereof is a fee, hence upheld the validity of the Act. The court however held that there has to be a broad correlation between the total amount of fees generated by the impugned cess and the total value of services rendered. Referring to Vijayalakshmi Rice Mills' case, another Bench of the Supreme Court in Hardev Motor Transport v. State of M.P. (2006) 8 S.C.C. 613) felt that it is bound by the Constitution

Bench decision than Vijayalakshmi Rice Mills' case.

13. The apex court in Jindal Stainless Ltd's case referring to Automobile Transport's case, supra held that the working test propounded in that case stood disrupted in the case of Bhagatram Rajeevkumar v. CST (1995) Supp. (1) SCC 673) and State of Bihar v. Bihar Chamber of Commerce (1996) 9 SCC 136). The apex court in Jindal's case, supra, overruled the above mentioned decisions and accepted the working test laid down in Automobile Transport's case, that is, “direct and immediate effect” not “some connection or casual connection”of the impugned law on trade and commerce under Article 301 as propounded in Atiabari Tea Co.'s case and the working test enunciated in Automobile Transport's case for deciding whether a tax is compensatory or not will continue to apply and the test of “some connection” is not good law. The apex court further held as follows:

> “To sum up, the basis of every levy is the controlling factor. In the case of “a tax”, the levy is a part of common burden based on the principle of ability or capacity to pay. In the case of “a fee”, the basis is the special benefit to the payer (individual as such) based on the principle of equivalence. When the tax is imposed as a part of regulation or as a part of regulatory measure, its basis shifts from the concept of “burden” to the concept of measurable/quantifiable benefit and then it becomes “a compensatory tax” and its payment is then not for revenue but as reimbursement/recompense to the service/facility provider. It is then a tax on recompense. Compensatory tax is by nature hybrid but it is more closer to fees than to tax as both fees and compensatory taxes are based on the principle of equivalence and on the basis of

> reimbursement/recompense. If the impugned law chooses an activity like trade and commerce as the criterion of its operation and if the effect of the operation of the enactment is to impede trade and commerce then Article 301 is violated."

We may in this connection refer to the judgment of the Division Bench of the High Court of Jharkhand in W.P. (T) No 5354 of 2004 wherein the court considered the validity of the notification dated 23.03.2002 issued by the State of Jharkand by which 2% entry tax on the imported coal which the company had imported from Australia and New Zealand to Haldia (West Bengal) and Paradip (Orissa) as per contracts executed between the parties was imposed. In exercise of the legislative power conferred upon the State, pursuant to Entry 52 of List 2 of VII Schedule of the Constitution of India and under Article 213 of the Constitution, Bihar Tax on entry of goods into the local areas for consumption, Ordinance 11 of 1993 was promulgated and published on 22.2.1993 in the extra-ordinary gazette of Bihar. By a subsequent notification dated 25.02.1993 the entry tax was introduced in the erstwhile State of Bihar and such notification was made effective since then. Bihar Ordinance was replaced and another Ordinance by name Bihar Taxes on Entry of Goods into Local Areas for Consumption, Use or Sale thereof

Ordinance 1993 was issued and the second Ordinance was made and an Act in the name and style of "Bihar Taxes on Entry of Goods into Local Areas for Consumption, Use or Sale thereof Act, 1993. Section 3 is the charging Section. The court examined the validity of the notification in the light of the decision in Jindal's case and took the view that there is nothing on record to show that proportionate benefit has been extended to any individual as a member of class or any service facility has been provided in lieu of the same. It is also held that there is no material to indicate that the revenue so collected by way of entry tax is being recompensed to the service/facility provider, nor the impugned enactment facially or patently indicates the quantifiable data on the basis of which the compensatory tax is sought to be levied. It is also held that the Act does not disclose any material to show as to how the levying of entry tax is of any benefit to the free flow of trade and commerce.

14. The Division Bench of the Bombay High Court in Eurotex Industries and Exports Limited v. State of Maharashtra (2004)135 STC 25) placing reliance on the decision of the apex court in Jindal Stripe Ltd v. State of Haryana (2003 (8) SCC 60) examined the scope of Section 3 of the Maharashtra Tax on the Entry of Goods

Into Local Areas Act, 2002. Constitutional validity of the Act was challenged in that case in so far as it purports to levy entry tax on furnace oil and low sulphur waxy residue oil as unauthorised and unconstitutional. Though the legislative competence of the State was challenged, they did not press the same and finally the challenge was restricted to the question as to whether the levy is in violation of Article 14, 19(1)(g), 301, 304 and 286 of the Constitution of India. The court held that entry No. 13 to the Schedule to the Entry Tax Act in so far as it purports to levy entry tax on furnace oil and low sulphur waxy residue oil is unauthorised and unconstitutional. The court held that in spite of several affidavits filed by the State it has not been able to establish the nexus between the collection of entry tax and its utilisation for the benefit of traders. The court held that in the absence of any link between the entry tax on imported goods and the facilites extended to the importers directly or indirectly the levy of entry tax which is discriminatory cannot be said to be compensatory in nature. The court also found there is absolutely no nexus shown between the collection of entry tax and its utilisation for the benefit of traders/manufacturers from whom such tax is collected. The court noticed that the affidavits are vague and general in this respect and

simply state that the revenue obtained from the imposition of the entry tax are used for welfare activities such as maintenance of roads, hospitals, markets etc. It was noticed that it was not in dispute that the State Government had been making the levy even prior to the introduction of the entry tax and therefore it cannot be said that entry tax was levied with proportionate road fund.

15. The apex court in State of H.P. v. Yash Pal Garg (2003) 9 S.C.C. 92) examined the question whether tax imposed by the State of Himachal Pradesh to recover only part of the cost incurred by the State in construction and maintenance of roads and bridges is compensatory or not. Tax levied by H.P. Taxation (on Certain Goods Carried by Road) Act, 1991 was held compensatory for the reason that the demand for tax from traders in common with others is not a restriction on the right to carry on trade, commerce and intercourse. The court held such a tax would not come within the purview of the restriction contemplated under Article 301 unless it is established that in reality it hampers or burdens the trade and commerce. Further it was noticed that the State law accords identical treatment in the matter of levy and collection of tax on the goods manufactured within the State and identical goods imported from outside the State.

The facts we get in the above case is entirely different from the facts of the cases we are dealing with. First of all, State of Himachal Pradesh is a hilly area which is not connected with railway or other modes or water transport. Expenses for maintenance is very huge and the tax is collected from all that is from the traders within the State and outside. Principle laid down in the case is therefore not applicable to this case. Further, we may notice, in Yash Pal Garg's case, supra, all the traders were treated alike whether they are from within the State or not.

16. The Kerala Entry Tax Act was originally enacted to provide for the collection of sales tax on motor vehicles purchased from outside the State and brought into State and to avoid loss of sales tax on account of purchase of motor vehicles by parties other than dealers from outside the State and brought into State. The object and reasons of the Bill were as follows:

> "The State is a loser of sales tax on motor vehicles which are purchased from outside the State and brought into the State. In order to curb the evasion of sales tax on motor vehicles purchased from outside the State and brought into the State, Government have decided to levy a tax on entry of such

motor vehicles into the State, either for use or sale, which are liable for registration in the State under the Motor Vehicles Act, 1988 (Central Act 59 of 1988)."

Subsequently the Act was amended, vide Finance Act, 1996 (Act 23 of 1996) for the purpose of bringing in various goods within the umbrella of the Act. The expression "goods" has been inserted by Act 23 of 1996 to mean goods as mentioned in the Schedule, vide Section 2 (1) (ee). "Local area" has been defined in Section 2 (1) (h) as the area of jurisdiction of a local authority. "Local authority" has been defined in Section 2 (1) (i) of the Act to mean Grama Panchayat constituted under the Kerala Panchayat Raj Act, 1994 or a Town Panchayat, a Municipal Council or a Municipal Corporation constituted under the Kerala Municipality Act, 1994 (20 of 1994) or a Cantonment declared under the Cantonments Act, 1924. Section 2 (1) (d) defines the expression "entry of goods into local area" which means entry of goods into a local area from any place outside the State for use (consumption) or sale therein. Section 2 (1) (g) defines the expression "importer" as a person who brings or cause to be brought any goods whether for himself or on behalf of his principal or any other person, into a local area from any place outside the

State for use, consumption, or sales therein or who owns the goods at the time of entry into the local area. Charging Section 3 which which stood prior to the amendment by Finance Act 2003 read as follows:

> (1) Subject to the provisions of this Act, there shall be levied and collected a tax on the entry of any goods into any local area for use, consumption, transfer or sale therein. The tax on such goods shall be at such a rate or rates as may be fixed by Government by notification, on the purchase value of goods not exceeding the rates specified for the goods in the First Schedule to the Kerala General Sales Tax Act, 1963.
>
> Provided that no tax shall be levied and collected in respect of any motor vehicle which was registered in any Union Territory or any other State under the provisions of the Motor Vehicle Act, 1998 (Central Act 59 of 1988), prior to a period of fifteen months or more from the date on which it is registered in the State:
>
> Provided further that no tax shall be levied and collected in respect of any goods which is the property of the Central Government or which is used exclusively for purposes relating to the defence of India.
>
> (2) The tax shall be payable by the importer of any goods by the importer in such manner and within such time as may be prescribed.

After the amendment by Finance Act 2003 reads as follows:

> (1) Subject tot he provisions of this Act, there shall be levied and collected a tax on the entry of any goods into any local

> area for use, consumption, transfer or sale therein. The tax on such goods shall be at such a rate or rates as may be fixed by Government by notification, on the purchase value of goods not exceeding the tax payable for the goods as per the Kerala General Sales Tax Act, 1963.
>
> Provided that no tax shall be levied and collected in respect of any motor vehicle which was registered in any Union Territory or any other State under the provisions of the Motor Vehicle Act, 1998 (Central Act 59 of 1988), prior to a period of fifteen months or more from the date on which it is registered in the State:
>
> Provided further that no tax shall be levied and collected in respect of any goods which is the property of the Central Government or which is used exclusively for purposes relating to the defence of India.
>
> (2) The tax shall be payable by the importer of any goods by the importer in such manner and within such time as may be prescribed.

The above mentioned provision, Section 3 (1) read with Section 2 (1) (d), 2 (1) (h) and 2 (1) (i) of the Act makes it clear that taxable event of any of the goods is on the entry of scheduled goods being brought into the local area from outside the State for consumption, use or sale. Petitioners contend that State Legislature is incompetent to enact law levying tax on the entry of goods for use or sale under entry 52 List II regardless of whether the goods manufactured or produced outside the State entered into the local

area for use, consumption or sale. Petitioners submit that entry 52 does not confer power on the legislature to enact law to levy on goods brought to the State from outside and hence the levy attempted on the crossing of scheduled goods from outside the State infringes the freedom of trade guaranteed under Article 301 of the Constitution of India. In Rajan's case, supra the Division Bench of this court held that regulatory measures or measures imposing compensatory tax do not come within the purview of restrictions contemplated in Art. 301 and that such measures need not comply with the requirement of the provisions of Art. 304(b) of the Constitution. The apex court however in Jindal's case held that Article 301 is not only an authorisation to enact laws for the protection and encouragement of trade and commerce amongst the States but by its own force creates an area of trade free from interference by the State and therefore Article 301 per se constitutes limitation on the power of the State. Article 301 is binding upon the Union Legislature and the State Legislatures, and provides for freedom of inter-State as well as intra-State trade and commerce subject to other provisions of Part XIII and correspondingly it imposes a general limitation on the legislative powers. The court held that

whenever the law is impugned as violative of Article 301, the courts will have to examine the effect of the operation of the impugned law on the inter-State and the intra-State movement of goods, which movement constitutes an integral part of trade.

17. We have examined whether the Kerala Entry Tax Act facially or patently indicated quantifiable data on the basis of which the compensatory tax was levied. The Act has not indicated any benefit which is either quantifiable or measurable, if the provision of the Act does not indicate facially the quantifiable benefit, burden is on the State as a service/facility provider to show by placing the materials before the court that the payment of compensatory tax is a reimbursement/recompense for the quantifiable/measurable benefit provided or to be provided to the payer. We have already found that the compensatory character of tax is not self-evident from the Kerala Entry Tax Act. We have already extracted the object of the Act which is for augmenting the general revenue by curbing the evasion of sales tax on goods purchased from outside the State, which cannot be characterised as a compensatory levy. This legal position is well settled by the judgment of the apex court in Jindal Stripe Limited's case, (2003) 8 S.C.C. 80) wherein the court held that the

tax imposed for augmenting the general revenue such as sales tax is not compensatory.

18. We shall now examine whether the State has discharged the burden of showing that the levy is compensatory by placing materials before the court. We have already referred to the affidavit filed by the Commissioner of Commercial Tax. Provision for convenient roads in the State and its expenditure for maintenance, so also bridges, water transport, ports, light houses, development of industries and allied matters are the services rendered by the state so as to support the levy of compensatory tax. Neither in the object and reasons of Bill nor in the preamble of the Act there is any indication that the purpose of levy of entry tax was for the aforesaid purpose but only for augmenting the general revenue. Essence of compensatory tax is that the services rendered or facilities provided should be more or less commensurate with the tax levied. Services provided will have a direct co-relation with the trade. The main basis of a compensatory tax is the quantifiable and measurable benefit, represented by the costs incurred in procuring the facility/service. The cost in turn became the basis of reimbursement/recompense for the provider of services/facilities. From the point of view of

Government, as stated by the apex court in Jindal Stainless Ltd's case, a compensatory tax is a charge for offering trading facilities and they are based on the principles of equivalence. Applying the above test, it cannot be said that maintaining of roads, providing bridges etc. is compensatory in nature so also meet the outlay incurred for some special advantage to trade, commerce and intercourse. Providing the above facilities and its use may incidentally bring in net revenue to the Government, but that circumstance is not an essential ingredient of compensatory tax. We may in this connection point out that in the counter affidavit filed by the State in Rajan's case, the stand of the State was that entry tax was collected in lieu of sales tax and to compensate the loss of sales tax revenue. Some in direct connection or some connection, more or less commensurate etc. are not the tests, but the direct and immediate effect is the test. Maintaining of roads, bridges etc. and promotion of SSI units etc. are generally met from the general funds or revenue. Whether goods are transported into the State from outside the State or abroad the State has got a duty to provide those facilities, like roads, bridges etc. which is being enjoyed not only by persons who bring goods notified for levy of entry tax but also

others. In our view, there is absolutely no connection or nexus with the collection of entry tax and its utilisation for the benefit of traders/manufacturers from whom such tax is collected. Affidavit filed is not specific and the State has not been able to establish the nexus between entry tax collected and the benefit conferred upon the person from whom the tax is collected. We also notice, the State is also discriminating between traders who bring goods from outside the State or country to a local area as defined under Section 2 (1)(h) read with Section 2 (1) (d) and person who brings goods from an area within the State to a local area in the State. Facts would indicate that on the introduction of entry tax, manufacturers have opted to purchase raw materials from within the State because they are less costlier since the levy of entry tax has definitely created a tax barrier affecting the free flow of trade, commerce and intercourse, such a tax violates Article 301 of the Constitution and therefore liable to be declared as unconstitutional. The apex court in Vijayalakshmi Rice Mills' case, supra held that even in the case of imposing cess for providing facilities like roads, bridges and storage facilities in rural areas, there must be a broad correlation between the fee being realised and the services rendered, even for traders who do their

business in the State of Andhra Pradesh. Entry tax in Kerala, it may be noticed, is being collected only from persons who bring goods from outside the State while persons within the State are not burdened with the levy which is discriminatory and violative of Article 14 of the Constitution of India. The decision in Rajan's case, in our view, is contrary to the principle laid down by the apex court in Jindal's case and Vijayalakshmi Rice Mills' case and is no longer good law.

19. We therefore hold that unless and until State discharges its burden by placing materials before court that payment of compensatory tax is reimbursement/recompense, quantifiable/measurable benefit provided or to be provided to the payers or there is any broad correlation between the entry tax being realised and the services rendered, it cannot sustain levy of entry tax. We are of the view, State has not discharged its burden by providing quantitative data on the basis of which compensatory tax is sought to be levied and the working test laid down in Automobile Transport's case, Jindal Stainless Ltd's case or Vijayalakshmi Rice Mills' case is not satisfied in these cases for levying entry tax.

20. We may now examine the position with regard to the

goods imported from outside the country to the State of Kerala. Reasons we have indicated in the case of goods brought from outside the State of Kerala would apply to goods brought from abroad also. Goods like signal transmission equipments, antenna, radio equipments, escavator, motor cars were/are imported into the country through various ports in the State of Kerala as well as outside the State of Kerala and then to the State of Kerala. Petitioners have obtained customs clearance on payment of customs duty and levy. Some of the petitioners have not only paid the customs and other dues but also sales tax to some other States. Object of Act 15 of 1994 which we have already indicated was to curb evasion of sales tax on motor vehicles purchased from outside and brought into State on the plea that State was losing sales tax on motor vehicles which were purchased from outside the State and brought to the State. In the budget speech in the Assembly during 1994-95 in regard to new tax measures it is stated that the Government proposed to impose entry tax on motor vehicles in order to prevent loss of revenue on account of vehicles being purchased directly from other States. A Division Bench of this court in Fr William Fernandez' case, supra took the view that the object and

reasons and the preamble and the provisions of the Act seek to provide for the levy of tax on the entry of goods into local areas of the State from outside, but does not include entry from across the border of the country. Reference was also made to clause (n) of Section 2 (1) dealing with purchase value. What has been directed to be taken into account is the value of goods as ascertained from the original invoice and includes insurance, excise duties, countervailing duties, sales tax, transport fee, freight charges and all other charges incidentally levied on the purchase of goods and in the case of motor vehicle includes the value of accessories fitted to the vehicle. However, no reference was made to the customs and other duties that an importer has to pay for clearance of the goods which is not indeed an omission without significance, so held by the Division Bench. The expressions “import”, “importer”, “local area” in Section 2 (1) of the Kerala Entry Tax Act refer to goods brought from outside the State of Kerala. Section 2 (1) (d) specifically uses the expression “outside the State” as also in Section 2 (1)(g). We are of the view since the term “outside the State” has been used, entry tax is not leviable on scheduled goods brought from outside the country. The tax which discriminates between goods imported from other States

and outside the country and locally manufactured hampers the trade between the States and therefore not compensatory and liable to be declared as unconstitutional. We fully endorse the view of the Division Bench in Fr William Fernandez's case.

21. We have on facts found that levy of entry tax is not compensatory in nature, therefore discriminatory and the impugned levy is violative of Articles 14, 301 and 304 of Chapter XIII of the Constitution of India. Protection was however claimed under Article 304 (b) of the Constitution even if it was held to be non compensatory. The Act 15/94 was received the assent of the Governor on 19.6.1994. Amendments were effected by Act 23 of 1996 which had no previous sanction of the President of India as required under the proviso to Article 304 (b) of the Constitution of India; nor was it subsequently assented to by the President of India. It is therefore contended that Section 3 (1) of the Act is void for want of Presidential assent. On facts we have already held that so far as these cases are concerned, imposition of levy of entry tax is not compensatory in nature. Further, even if the notwithstanding clause is employed to bring in within the ambit of Article 304(b) even then the procedure laid down in the proviso has not been satisfied; nor the

element of public interest is established. The State could not prove that the Act imposes only reasonable restriction on the freedom of trade, commerce or intercourse as may be required in public interest. There is nothing to show that the levy was made in public interest and that there is nothing on record to suggest that the levy of entry tax on goods introduced by amendment Act had the prior sanction of the President as required under the proviso to Article 304(b); nor was there anything on record to suggest that before amending the act assent of the President was obtained as contemplated under Article 255 of the Constitution of India. What is placed before us is only a letter from the Government of India in response to the letter of June 1992 sent by the Taxes Department stating that the Government of India have no objection to the introduction of the Kerala Tax on Entry of Goods into Local Areas Bill 1992 by the State Legislature under Article 304(b) of the Constitution which is not the assent or previous sanction of the President as per the proviso to Article 304 (b) of the Constitution.

22. We therefore hold that the levy of entry tax on goods imported from other State to the State of Kerala and from abroad is not compensatory in nature since the State Government could not

discharge its burden by placing materials before court that payment of levy of entry tax is reimbursement/recompense for the quantifiable/measurable benefit provided or to be provided to the petitioners. The impugned Act imposing entry tax cannot be said to be specifically meant for facilitating trade, commerce and intercourse, but is raised for augmenting the general revenue of the State. We therefore hold that the demand and collection of entry tax under the Kerala Tax on Entry of Goods into Local Areas Act, 1994 is illegal, unauthorised and violative of Article 301 of the Constitution of India. Original Petitions are allowed as above and the levy and demand notices issued would stand quashed.

Sd/-

(K.S. RADHAKRISHNAN, JUDGE)

Sd/-

18/12/2006 (M.N. KRISHNAN, JUDGE)
en/

[true copy]

O.P. No 434 of 1996

Appendix

Petitioner's exhibits:

Ext.P1 - True copy of the application dated 13.12.1995

Ext.P2 - True copy of the application dated 13.12.1995 by the petitioner to the second respondent.

[true copy]

O.P. No 1788 of 1996

Appendix

Petitioner's exhibits;:

Ext.P1 - True copy of registration certificate of the petitioner's car No KL-4B/2777
Ext.P2 - True copy of the bill of lading 218-780689 dt 9.6.1994
Ext.P3 - True copy of the objection by the petitioner to the second respondent on 7.9.1995
Ext.P4 - True copy of the notice No A1.72/95/137 dated 19.1.1996

[true copy]

O.P. No 6987 of 1997

Appendix

Petitioner's exhibits:

Ext.P1 - True copy of bill of entry dated 19.4.1995 issued in favour of the petitioner.
Ext.P2 - True copy of the certificate of registration dt 26.6.1995
Ext.P3 - True copy of the notice dated 18.1.1997 issued by the first respondent to the petitioner.

[true copy]

O.P.No 2408 of 1997

Petitioner's exhibits:

Ext.P1 - True copy of the Bill of Entry for home consumption dated 2.9.1996

[true copy]

O.P.No 20344 of 1996

Appendix

Petitioner's exhibits:

Ext.P1 - True copy of the Motor Vehicle Registration held by the petitioner in UAE

[true copy]

O.P.NO 16151 OF 1996

Petitioner's exhibits:
Ext.P1 - True copy of the registration certificate issued by the Switzerland authorities
Ext.P2 - True copy of the translation of registration certificate
Ext.P3 - True copy of the bill of entry import of the petitioner's motor car
Ext.P4 - True copy of the receipt issued by the Cochin Port trust

Ext.P5 - True copy of the policy
Ext.P6 - True copy of the application submitted by the petitioner along with the endorsement of the first respondent
Ext.P7 - True copy of clarification issued by many other sales tax offices.

[true copy]

O.P. No 3724 of 1997

APPENDIX

Petitioner's exhibits:

Ext.P1 - Copy of the Import application dated 11.8.1995
Ext.P1(a) - Copy of the supplementary import application dated 24.8.1995
Ext.P2 - True copy of the relevant page of the registration certificate No KL 3/B 2575
Ext.P3 - True copy of the communication No LAR/95/96/ADR dated 19.10.1996 issued by the 2nd respondent ot the petitioner

[true copy]

O.P.NO 6151/96
Appendix

Petitioner's exhibits:

Ext.P1 - True copy of certificate dated 23.02.1996 issued by the southern railway to the petitioner.
Ext.P2 - True copy of invoice dated 19.2.1996 issued by Escorts JCB Ltd to the petitioner
Ext.P3 - True copy of application for registration of a motor vehicle submitted by the petitioner before the second respondent.

[true copy]

O.P.No 14183 of 1996

Appendix

Petitioner's exhibits:

Ext.P1 - True copy of import application endorsed by the Cochin Port Trust dated 16.8.1996
Ext.P2 - True copy of Bill of Entry showing the duty payable on the vehicle and the date of arrival
Ext.P3 - True copyof demand draft
Ext.P4 - True copyof application
Ext.P5 - True copy of communication dt 6.9.96

[true copy]

W.P.C. 12671 OF 2006

APPENDIX

Petitioner's exhibits:

Ext.P1 - Copy of the Invoice PR/10119/47 issued by M/s Proman Infrastructure Service Pvt Ltd. Bangalore
Ext.P2 - Copy of notice No 3110/06-07 issued by the second respondent
Ext.P3 - Copy of letter sent by the petitioner to the econd respondent.
Ext.P4 - Copy of the receipt TXTA 52324 issued by the 2nd respondent
Ext.P5 - Copy of invoice of schwing Stetter India Pvt Ltd
Ext.P6 - Copy of invoice of Schwing Stetter India Pvt Ltd

[true copy]

W.P.C. No 12490 of 2006

Appendix

Petitioner's exhibits:

Ext.P1 - True copy of Bill of Entry dated 22.2.2006 and receipt for payment to customs duty dated 22.02.2006
Ext.P2 - True copy of the application for registration dated 17.03.2006
Ext.P3 - True copy of the proceedings dated 3.3.2006 issued by the first respondent.
Ext.P4 - True copy of extract from the referral judgment in Appeal 3453 of 2002 dated 13.4.2006 published through internet
Ext.P5 - True copy of the interim order in WP(C) No 1825 of 2006 dated 27.1.2006 passed by this court.

[true copy]

WPC 12819 of 2006

Appendix

Petitioner's exhibits:

Ext.P1 - True copy of authorisation letter authorising the General Manager (Projects) to file the W.P. Dated 9.5.06
Ext.P2 - True copy of the agreement with Tamilnadu Coir Corporation signed by the petitioner dated 27.1.06
Ext.P3 - True copy of letter dated 19.4.06 sent to the petitioner by the Tamil Nadu Coir Corporation

[true copy]

W.P.C. No 12513 of 2006

Appendix

Petitioner's exhibits:

Ext.P1 - True copy of the registration certificate dated 11.12.2001 issued under the C.S.T.Act.

Ext.P2 - True copy of KGST Registration Certificate dated 11.12.2001 issued ot the petitioner.

[true copy]

W.P.C. No 12865 of 2006

Appendix

Petitioner's exhibits:

Ext.P1 - True copy of the intimation dated 17.2.2006 issued by the third respondent.
Ext.P2 - Request for change of name dated 16.2.2006

Ext.P3 - True copy of the notice dated 31.3.2006

[true copy]

W.P.C. No 12864 of 2006

Appendix

Petitioner's exhibits:

Ext.P1 - True copy of the registration certificate dated 22.8.1996 issued under the KGST Act

Ext P2 - True copy of CST Act registration certificate dated 22.8.1996 issued to the petitioner.

[true copy]